

**IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF OKLAHOMA**

DOMINIC R. JONES,)	
)	
Plaintiff,)	
)	
v.)	Case No. CIV-24-576-SLP
)	
JAVIER MARTINEZ et al.,)	
)	
Defendants.)	

ORDER

Plaintiff, proceeding pro se, brings this action pursuant to 42 U.S.C. § 1983.¹ The matter was referred to United States Magistrate Judge Suzanne Mitchell pursuant to 28 U.S.C. § 636(b)(1)(B) and (C). Judge Mitchell recommends that the Court grant summary judgment in favor of Defendants Javier Martinez Wayne McKinney, Rick Lang, and Jenny Smith because Plaintiff failed to exhaust administrative remedies pursuant to the Prison Litigation Reform Act of 1995.² *See* [Docs. No. 30, 31].

Judge Mitchell advised Plaintiff of his right to file an objection to each R. & R. by February 12, 2025, and further advised him that failure to make timely objection waives the right to appellate review of both factual and legal issues contained therein. *See* [Doc.

¹ At the time he filed this action, Plaintiff was a pretrial detainee at Stephens County Detention Center. Plaintiff is no longer in custody, *see* [Doc. No. 30] at 1 n.1, and the mailing containing the Reports and Recommendations was returned as undeliverable, *see* [Doc. No. 32]. Plaintiff has not filed a notice of change of address. *See* LCvR 5.4(a); Fed. R. Civ. P. 5(b)(2)(C).


² Defendant Smith filed a Motion to Set Aside Service of Process [Doc. No. 27], and Defendants Martinez, McKinney, and Lang filed a Joint Motion to Deem Confessed Their Respective Motions to Dismiss or in the Alternative Motions for Summary Judgment [Doc. No. 28]. Judge Mitchell recommends the Court deny both motions as moot. *See* [Doc. No. 31] at 11.

No. 30] at 10; [Doc. No. 31] at 11. To date, Plaintiff has not filed an objection to either R. & R., nor has he requested an extension of time in which to do so. Plaintiff has therefore waived further review of all issues addressed in each R. & R. *See Moore v. United States*, 950 F.2d 656, 659 (10th Cir. 1991); *see also United States v. 2121 E. 30th St.*, 73 F.3d 1057, 1060 (10th Cir. 1996).

IT IS THEREFORE ORDERED that:

- (1) The Reports and Recommendations [Docs. No. 30, 31] are ADOPTED in their entirety.
- (2) Defendants' Motions [Docs. No. 23, 24], construed as motions for summary judgment, are GRANTED.
- (3) Summary judgment is GRANTED in favor of the remaining defendant, Jenny Smith.
- (4) The Motion to Set Aside Service of Process [Doc. No. 27] and Joint Motion to Deem Confessed [Doc. No. 28] are DENIED as moot.
- (5) This matter is DISMISSED without prejudice to refiling.

IT IS SO ORDERED this 18th day of February, 2025.



SCOTT L. PALK
UNITED STATES DISTRICT JUDGE